

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY AVERAGE WHOLESAL PRICE LITIGATION

MDL NO. 1456
Civil Action No. 01-12257-PBS

Judge Patti B. Saris

THIS DOCUMENT RELATES TO:

The City of New York v. Abbott Labs., et al.

(S.D.N.Y. No. 04-CV-06054)

County of Suffolk v. Abbott Labs., et al.

(E.D.N.Y. No. 03-CV-229)

County of Westchester v. Abbott Labs., et al.

(S.D.N.Y. No. 03-CV-6178)

County of Rockland v. Abbott Labs., et al.

(S.D.N.Y. No. 03-CV-7055)

County of Dutchess v. Abbott Labs., et al.

(S.D.N.Y. No. 05-CV-06458)

County of Putnam v. Abbott Labs., et al.

(S.D.N.Y. No. 05-CV-04740)

County of Washington v. Abbott Labs., et al.

(N.D.N.Y. No. 05-CV-00408)

County of Rensselaer v. Abbott Labs., et al.

(N.D.N.Y. No. 05-CV-00422)

County of Albany v. Abbott Labs., et al.

(N.D.N.Y. No. 05-CV-00425)

[Caption Continues on Next Page]

STIPULATION REGARDING THE NEW YORK EPIC PROGRAM'S RECEIPT OF AMP DATA

<i>County of Warren v. Abbott Labs., et al.</i>)
(N.D.N.Y. No. 05-CV-00468))
<i>County of Greene v. Abbott Labs., et al.</i>)
(N.D.N.Y. No. 05-CV-00474))
<i>County of Saratoga v. Abbott Labs., et al.</i>)
(N.D.N.Y. No. 05-CV-00478))
<i>County of Columbia v. Abbott Labs., et al.</i>)
(N.D.N.Y. No. 05-CV-00867))
<i>Essex County v. Abbott Labs., et al.</i>)
(N.D.N.Y. No. 05-CV-00878))
<i>County of Chenango v. Abbott Labs., et al.</i>)
(N.D.N.Y. No. 05-CV-00354))
<i>County of Broome v. Abbott Labs., et al.</i>)
(N.D.N.Y. No. 05-CV-00456))
<i>County of Onondaga v. Abbott Labs., et al.</i>)
(N.D.N.Y. No. 05-CV-00088))
<i>County of Tompkins v. Abbott Labs., et al.</i>)
(N.D.N.Y. No. 05-CV-00397))
<i>County of Cayuga v. Abbott Labs., et al.</i>)
(N.D.N.Y. No. 05-CV-00423))
<i>County of Madison v. Abbott Labs., et al.</i>)
(N.D.N.Y. No. 05-CV-00714))
<i>County of Cortland v. Abbott Labs., et al.</i>)
(N.D.N.Y. No. 05-CV-00881))
<i>County of Herkimer v. Abbott Labs. et al.</i>)
(N.D.N.Y. No. 05-CV-00415))
<i>County of Oneida v. Abbott Labs., et al.</i>)
(N.D.N.Y. No. 05-CV-00489))
<i>County of Fulton v. Abbott Labs., et al.</i>)
(N.D.N.Y. No. 05-CV-00519))
<i>County of St. Lawrence v. Abbott Labs., et al.</i>)
(N.D.N.Y. No. 05-CV-00479))
<i>County of Jefferson v. Abbott Labs., et al.</i>)
(N.D.N.Y. No. 05-CV-00715))
<i>County of Lewis v. Abbott Labs., et al.</i>)
(N.D.N.Y. No. 05-CV-00839))
<i>County of Chautauqua v. Abbott Labs., et al.</i>)
(W.D.N.Y. No. 05-CV-06204))
<i>County of Allegany v. Abbott Labs., et al.</i>)
(W.D.N.Y. No. 05-CV-06231))
<i>County of Cattaraugus v. Abbott Labs., et al.</i>)
(W.D.N.Y. No. 05-CV-06242))
<i>County of Genesee v. Abbott Labs., et al.</i>)
(W.D.N.Y. No. 05-CV-06206))
<i>County of Wayne v. Abbott Labs., et al.</i>)
(W.D.N.Y. No. 05-CV-06138))

<i>County of Monroe v. Abbott Labs., et al.</i>)
(W.D.N.Y. No. 05-CV-06148))
<i>County of Yates v. Abbott Labs., et al.</i>)
(W.D.N.Y. No. 05-CV-06172))
<i>County of Niagara v. Abbott Labs., et al.</i>)
(W.D.N.Y. No. 05-CV-06296))
<i>County of Seneca v. Abbott Labs., et al.</i>)
(W.D.N.Y. No. 05-CV-06370))
<i>County of Orleans v. Abbott Labs., et al.</i>)
(W.D.N.Y. No. 05-CV-06371))
<i>County of Ontario v. Abbott Labs., et al.</i>)
(W.D.N.Y. No. 05-CV-06373))
<i>County of Schuyler v. Abbott Labs., et al.</i>)
(W.D.N.Y. No. 05-CV-06387))
<i>County of Steuben v. Abbott Labs., et al.</i>)
(W.D.N.Y. No. 05-CV-06223))
<i>County of Chemung v. Abbott Labs., et al.</i>)
(W.D.N.Y. No. 05-CV-06744))
AND)
<i>County of Nassau v. Abbott Labs., et al.</i>)
(E.D.N.Y. No. 04-CV-5126))
)

WHEREAS Defendants Hoffmann-La Roche Inc. and Roche Laboratories Inc. (collectively “Roche”) have sought discovery relating to the receipt of Average Manufacturer Price (“AMP”) data by the New York EPIC Program for the Roche drugs at issue in these actions, as listed in Revised Exhibit B to Plaintiffs’ First Amended Consolidated Complaint; and,

WHEREAS the New York EPIC Program has stated that producing the requested discovery would be unduly burdensome;

WHEREFORE Roche and Plaintiffs, by their respective attorneys, hereby stipulate and agree, for the purposes of these cases only, as follows:

The New York EPIC Program has received Average Manufacturer Prices (“AMPs”) from certain prescription drug manufacturers, including defendants in the case styled *City of New York, et al. v. Abbott Labs., Inc., et al.* (MDL 1456). The EPIC Rebate Agreement instructs manufacturers to certify “that Average Manufacturer Price (AMP), Best Price and Baseline AMP data reported to EPIC are identical to the data reported to the Centers

for Medicare and Medicaid Services under Section 1927 of the Federal Social Security Act, if the Manufacturer is required to report such data to the Centers for Medicare and Medicaid Services.” Plaintiffs hereby stipulate and agree that defendants Hoffmann-La Roche Inc. and Roche Laboratories Inc. reported AMPs to EPIC on a quarterly basis for the NDCs identified in Exhibit A attached hereto. This stipulation does not constitute an admission by any party that the NDCs identified in Exhibit A are properly at issue in this litigation or otherwise properly attributed to Roche.

Respectfully submitted,

City of New York and New York Counties in
MDL 1456 except Nassau and Orange

Hoffmann-La Roche Inc. and Roche
Laboratories Inc.

/s/ Joanne M. Cicala

Joanne M. Cicala
James P. Carroll, Jr.
Jocelyn R. Normand
Kathryn B. Allen

KIRBY MCINERNEY, LLP
825 Third Avenue
New York, New York 10022
(212) 371-6600

/s/ Matthew J. Griffin

Matthew J. Griffin
Colleen M. Hennessey

PEABODY & ARNOLD, LLP
Federal Reserve Plaza
600 Atlantic Avenue
Boston, MA 02210-2261
Tel: (617) 951-2100
Fax: (617) 951-2125

Dated: March 29, 2010

CERTIFICATE OF SERVICE

I hereby certify that on March 29, 2010, I caused a true and correct copy of the foregoing to be served on all counsel of record via electronic service.

/s/ Matthew J. Griffin
Matthew J. Griffin